



AN COIMISIÚN UM ACHOMHAIRC CHÁNACH
TAX APPEALS COMMISSION

42TACD2026□

Between

██████████

Appellant

and

The Revenue Commissioners

Respondent

Determination

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Introduction

1. This determination concerns an appeal to the Tax Appeals Commission (“the Commission”) by the Appellant against a decision of the Respondent to refuse a claim for tax relief for the tax year 2023 (“the Relevant Year”) in respect of a contribution in the amount of €17,950 (“the Contribution”) made to a Personal Retirement Savings Account (“PRSA”). The claim was refused on the ground that it was made out of time.
2. The appeal proceeded by way of a remote hearing held in private.
3. At the outset, the Appeal Commissioner (“the Commissioner”) wishes to extend his condolences to the Appellant on the passing of his ■■■■■, along with acknowledging the Appellant’s continued engagement with the appeal process during a time of personal hardship.

Background

4. Section 787C(3) of the Taxes Consolidation Act, 1997, as amended (“the TCA 1997”) provides that an individual may elect to treat a contribution made to a PRSA in the current tax year as paid in the prior tax year, where both the contribution and the election are made on or before the income tax return filing deadline for that prior tax year.
5. The statutory income tax return filing deadline for the Relevant Year was 31 October 2024, which was extended by concession to 14 November 2024 for taxpayers who pay and file online using the Respondent’s systems.
6. The Appellant made the Contribution to a PRSA on ■■■ August 2024.
7. On 19 November 2024, the Appellant filed an amended income tax return (“the Amended Return”) for the Relevant Year, in which the Appellant sought tax relief in respect of the Contribution.
8. On 27 November 2024, the Respondent notified the Appellant that it had refused his claim for tax relief on the basis that the election was not made in time. The Appellant appealed to the Commission.
9. The Appellant submitted a notice of appeal and accompanying documentation in support of his appeal. Each party provided a statement of case and an outline of arguments.

Legislation and Guidance

10. The legislation relevant to the substantive issue in this appeal is set out below.
11. Section 787C(3) of the TCA 1997 states, among other things, that:

“Where in relation to a year of assessment a contribution to a PRSA is made after the end of the year of assessment but on or before the specified return date for the chargeable period (within the meaning of Part 41A) the payment may, if the individual so elects on or before that date, be treated for the purposes of this section as paid in the earlier year (and not in the year in which it is paid); ...”

12. Section 959A of the TCA 1997 provides, among other things, as follows:

“‘specified return date for the chargeable period’ means -

(a) in relation to a tax year for income tax or capital gains tax purposes, 31 October in the tax year following that year, ...”

13. An extract from the Respondent's eBrief No. 116/24 is as follows:

“Today, 09 April 2024, Revenue announced an extension to the ROS return filing and payment date for certain self-assessment Income Tax customers and for customers liable to Capital Acquisitions Tax (CAT).

*For customers who file their 2023 Form 11 return **and** make the appropriate payment through ROS for:*

Preliminary Tax for 2024, and

Income Tax balance due for 2023

*the due date is extended to **Thursday, 14 November 2024.***

...” (Emphasis in original)

Evidence and Submissions

Appellant's oral evidence

14. The Appellant gave sworn oral testimony on factual matters at the hearing.

15. The oral evidence given by the Appellant was consistent with the information contained in his notice of appeal, statement of case and outline of arguments, extracts of which are reproduced below.

Appellant's submissions

16. The Appellant's notice of appeal and statement of case contained similar information. For brevity, the Commissioner has included only an extract from the Appellant's notice of appeal, as it appears in the original document, as follows:

"1) Contacted Revenue in June'24 by when I can fund PRSA and claim pension in Return for 2023. I was told 31st oct and with last date 15-Nov.

2) Opened PRSA and invested 17900 well before 31st Oct '24 so I can file my return.

3) Tried filing the return but the website it erratic and doesn't work all time. The amend button get stuck with a msg and doesn't allow. Unfortunately I do not have a proof as I did not know that it will create such an issue when genuinely the investments were all done.

I still get the same problem many times to attached

4) Revenue phone is always busy and they don't pick up to advise . its been 4 months back and forth with them . Hardly 4 interactions with them -2 on phone and 2 on myenquiries.

The last one promised they would adjust but still don't have 2023 pension adjusted.

5) with trying multiple times , i did manage to enter my pension or some health reliefs by 19th Nov and was informed that 2023 closed on 15Th Nov.

NOTE NOTE- i am attaching screenshot which luckily shows I am not able to amend my 2023 and 2024 ITR today also . I cannot Press OK button it doesnt proceed. I can only cancel with cross button.

Of course we are growing old and want to start investing more into my Pension . we had surplus fund and both me and my wife opened PSRA and sent 17900 and 10000 to our respective [REDACTED] Account

Although this appeal is for me only

I had my personal situation where i had travelled to [REDACTED] [REDACTED] being hospitalized. with the situation I was in it ddint allow me to chase the problem i was getting on website or call revenue again and again unfortunately.

I did try my best though and luckily managed to fill on 19th nov

find it quite strange that paying more around [REDACTED] between me and my wife on taxes in last [REDACTED] yrs when we decide to start putting some funds for our pension, these are not supported by revenue?? why its only Oct previous year. in the first place when the income tax return is 4 yrs.

I am not asking for any favour from revenue but I want credit back on my pension"

17. Extracts from the Appellant’s outline of arguments, as they appear in the original document, are as follows:

“5. Submissions

A. The statutory conditions were substantively met

*The Appellant **paid the contribution well before** the specified return date. Multiple attempts to make the election were made **before 14 November 2024**, but were **blocked by ROS malfunctions**, as supported by the evidence submitted. On this basis, the Appellant asks the Commission to find that the statutory conditions were met **in substance**, and that the failure of transmission lies with the Respondent’s system.*

...

B. Alternative: Findings of fact for administrative remedy

If the Commission considers that it cannot grant the Appellant relief directly, then the Appellant asks that the Commission record clear factual findings — specifically, that:

1. *The contribution was paid on ■ August 2024;*
2. *Multiple attempts to make a timely election were made before the specified return date;*
3. *ROS system errors prevented successful filing;*
4. *Revenue’s guidance was incomplete or unclear;*
5. *A certificate requirement was introduced late.*

Such findings would allow Revenue to grant an administrative remedy consistent with the factual reality.

...

C. Proportionality, Good Faith, and Personal Circumstances ...

*The Appellant has paid **in excess of** ■ in Irish taxes over the past ■ and has always acted in full compliance with his obligations. He has never attempted to evade tax. His decision to invest in his PRSA/AVC was motivated solely by a wish to begin responsibly saving for his retirement.*

Over the past ■ years, the Appellant’s ■ was critically ill, requiring the Appellant to travel to ■ repeatedly, where—sadly—his ■ passed away recently. This

experience underscored the importance of preparing for later life, strengthening his resolve to contribute meaningfully to his pension.

*During this period, he faced **significant barriers** entirely beyond his control:*

- *The **Revenue website does not reliably function from** [REDACTED], meaning he could not complete ROS filings during essential periods when he was abroad for his [REDACTED] treatment.*
- *The **Revenue phone service was extremely difficult to reach**, with long delays and no prompt guidance provided when he urgently required clarification ahead of deadlines.*
- *These difficulties compounded the **technical errors in ROS, the unclear and incomplete guidance, and the late introduction of the certificate requirement**, all of which had the cumulative effect of preventing him from completing the process on time despite repeated, genuine efforts.*

*The Appellant paid the contribution early, attempted the election multiple times, and acted in **good faith** throughout. The financial loss he now faces arose **not from any negligence on his part**, but from **system failures, geographical access limitations, and the lack of prompt support from Revenue.***

In these circumstances, the Appellant respectfully submits that fairness, proportionality, and the integrity of the self assessment system support the granting of relief—or at minimum, factual findings enabling administrative redress.

...” (Emphasis in original)

Respondent’s submissions

18. The Respondent submitted that the Appellant is not entitled to tax relief for the Relevant Year in respect of the contribution made to a PRSA, as the claim was made out of time.
19. This remains the position even where the Appellant experienced technical difficulties when attempting to file an amended income tax return for the Relevant Year on or before the extended deadline of 14 November 2024 for that tax year. It also remains the case where the Appellant was experiencing difficult personal circumstances at that time.

Material Facts

20. Having considered the documentation submitted, and having heard the Appellant's evidence and the submissions of the parties at the hearing, the Commissioner makes the following findings of material fact:

20.1. The Appellant is an individual.

20.2. The Appellant was born on [REDACTED].

20.3. The Appellant and his spouse were jointly assessed for income tax purposes for the Relevant Year.

20.4. The income tax filing and payment deadline for the Relevant Year was extended by concession to 14 November 2024 for taxpayers who pay their income tax liabilities and file their income tax returns online using its systems.

20.5. The Appellant is the policy holder of a PRSA.

20.6. On [REDACTED] August 2024, the Appellant made the Contribution to that PRSA.

20.7. Prior to 31 October 2024 and 14 November 2024, the Appellant made repeated attempts to file an amended income tax return for the Relevant Year on myAccount, with the intention of seeking tax relief in respect of the Contribution. Due to technical difficulties, he was unsuccessful in his attempts to file an amended income tax return on or before either of those dates.

20.8. The Appellant did not inform the Respondent that he had experienced technical difficulties when attempting to file an amended income tax return for the Relevant Year on myAccount until after the Respondent had refused his claim for tax relief.

20.9. The Appellant did not notify the Respondent prior to 19 November 2024 of his request to claim tax relief for the Relevant Year in respect of the Contribution.

20.10. On 19 November 2024, the Appellant filed the Amended Return for the Relevant Year, in which the Appellant sought tax relief in respect of the Contribution.

20.11. The Appellant filed the Amended Return using myAccount, which is an online service operated by the Respondent.

20.12. On 27 November 2024, the Respondent notified the Appellant that it had refused his claim for tax relief on the basis that the election was not made in time.

20.13. The Appellant was in receipt of employment income from two companies during the Relevant Year.

20.14. The following details are recorded in the Amended Return in respect of the Appellant's employment income:

Employer	[Employer 1]	[Employer 2]
Pay for Income Tax	██████████	██████████
Income Tax paid	██████████	██████████
Pay for USC	██████████	██████████
USC paid	██████████	██████████

Analysis

Burden of proof

21. The burden of proof in this appeal rests on the Appellant to establish that the Respondent erred in refusing his claim for tax relief for the Relevant Year in respect of the Contribution made to a PRSA. This is the sole issue for determination in this appeal.
22. In the High Court case of *Menolly Homes Ltd v. Appeal Commissioners and Anor.* [2010] IEHC 49 ("*Menolly Homes*"), Charleton J. stated at paragraph 22, among other things, that:

"The burden of proof in this appeal process is, as in all taxation appeals, on the taxpayer. This is not a plenary civil hearing. It is an enquiry by the Appeal Commissioners as to whether the taxpayer has shown that the relevant tax is not payable."

23. Additionally, in *Hanrahan v The Revenue Commissioners* [2024] IECA 113 ("*Hanrahan*"), the Court of Appeal clarified the approach to the burden of proof where an appeal relates to the interpretation of law only. The court stated, among other things, that:

"97. Where the onus of proof lies can be highly relevant in those cases in which evidential matters are at stake. ...

98. In the present case however, the issue is not one of ascertaining the facts; the facts themselves are as found in the case stated. The issue here is one of law; ... Ultimately when an Appeal Commissioner is asked to apply the law to the agreed facts, the Appeal Commissioner's correct application of the law requires an objective

assessment of what the law is and cannot be swayed by a consideration of who bears the burden. If the interpretation of the law is at issue, the Appeal Commissioner must apply any judicial precedent interpreting that provision and in the absence of precedent, apply the appropriate canons of construction, when seeking to achieve the correct interpretation. ...”

24. This appeal concerns the correct interpretation of the legislation governing the tax treatment of contributions made to PRSAs, and its application to the facts of this appeal.
25. The standard of proof applicable in this appeal is the balance of probabilities.

The Commissioner’s jurisdiction

26. The Commission is a statutory body created by the Finance (Tax Appeals) Act 2015. It is independent of the Respondent.
27. As a statutory body, the Commission only has the powers that have been granted to it by the Oireachtas. The powers of the Commission to hear and determine tax appeals are set out in Part 40A of the TCA 1997.
28. The Court of Appeal’s judgment in *Lee v Revenue Commissioners* [2021] IECA 18 (“*Lee*”) is authoritative as to the Commission’s jurisdiction. In *Lee*, Murray J. stated at paragraph 20, among other things, that:

“The Appeal Commissioners are a creature of statute, their functions are limited to those conferred by [the TCA 1997], and they enjoy neither an inherent power of any kind, nor a general jurisdiction to enquire into the legal validity of any particular assessment. Insofar as they are said to enjoy any identified function, it must be either rooted in the express language of [the TCA 1997] or must arise by necessary implication from the terms of that legislation.”

29. The Commissioner refers further to *Lee*, wherein Murray J. stated at paragraph 76:

“The jurisdiction of the Appeal Commissioners ... under those provisions of [the TCA 1997] in force at the time of the events giving rise to these proceedings and relevant to this appeal ... is limited to determining whether an assessment correctly charges the relevant taxpayer in accordance with the relevant provisions of [the TCA 1997]. That means that the Commissioners are restricted to inquiring into, and making findings as to, those issues of fact and law that are relevant to the statutory charge to tax. Their essential function is to look at the facts and statutes and see if the assessment has been properly prepared in accordance with those statutes. They may

make findings of fact and law that are incidental to that inquiry. Noting the possibility that other provisions of [the TCA 1997] may confer a broader jurisdiction and the requirements that may arise under European Law in a particular case, they do not in an appeal of the kind in issue in this case enjoy the jurisdiction to make findings in relation to matters that are not directly relevant to that remit, and do not accordingly have the power to adjudicate upon whether a liability the subject of an assessment has been compromised, or whether [the Respondent is] precluded by legitimate expectation or estoppel from enforcing such a liability by assessment, or whether [the Respondent has] acted in connection with the issuing or formulation of the assessment in a manner that would, if adjudicated upon by the High Court in proceedings seeking Judicial Review of that assessment, render it invalid.”

30. While *Lee* concerned assessments raised before the enactment of the Finance (Tax Appeals) Act 2015, and the statutory analysis was therefore based on the older legislation, Part 40 of the TCA 1997, the overarching analysis of Murray J. is applicable to Part 40A of the TCA 1997.
31. It follows from the judgment in *Lee* that the Commissioner does not have jurisdiction to adjudicate upon, among other things, allegations of unfairness in this appeal. The Commissioner has no equitable power or wider discretion to disapply statutory provisions.
32. It is also useful to cite paragraph 12 of the judgment of Charleton J. in *Menolly Homes*, as follows:

“Revenue law has no equity. Taxation does not arise by virtue of civic responsibility but through legislation. ...”

Substantive issue

33. In this appeal, the Commissioner’s role is to consider whether the Appellant is entitled to tax relief for the Relevant Year in respect of the Contribution made to a PRSA.
34. In considering the substantive issue in this appeal, consistent with the judgment in *Hanrahan*, the Commissioner is required to apply the appropriate canons of construction in interpreting the relevant legislative provisions governing the tax treatment of contributions made to PRSAs.
35. It is clear from the line of recent authority, including the Supreme Court judgments in *The People (DPP) v. Brown* [2018] IESC 67 (“*Brown*”), *Dunnes Stores v. The Revenue Commissioners* [2019] IESC 50 (“*Dunnes*”), *Bookfinders Ltd. v. The Revenue Commissioners* [2020] IESC 60 (“*Bookfinders*”), *Heather Hill Management Company*

CLG and Anor. v An Bord Pleanála [2022] IESC 43 (“*Heather Hill*”) and *Hanrahan*, that the starting point of an interpretative exercise in an appeal of this nature is to consider the ordinary and natural meaning of the wording of the statute itself, viewed in context.

36. Applying the principles of statutory interpretation enunciated in *Brown, Dunnes, Bookfinders* and *Heather Hill*, the Commissioner is satisfied that no further rules of interpretation are required; the wording of the relevant provisions is plain and self-evident, viewed in context.

37. Section 787C(3) of the TCA 1997 states, among other things, that:

*“Where in relation to a year of assessment a contribution to a PRSA is made after the end of the year of assessment but on or before the specified return date for the chargeable period (within the meaning of Part 41A) the payment may, **if the individual so elects on or before that date**, be treated for the purposes of this section as paid in the earlier year (and not in the year in which it is paid); ...”* (Emphasis added)

38. In accordance with section 959A of the TCA 1997, the specified return date for the Relevant Year was 31 October 2024.

39. By concession, as outlined eBrief No. 116/24, the income tax filing and payment deadline for the Relevant Year was extended to 14 November 2024 for taxpayers who pay their income tax liabilities and file their income tax returns online using ROS, which is the acronym for Revenue Online Service.

40. Based on the information before the Commissioner in this appeal, he is satisfied that the same concession was granted to taxpayers who use myAccount, another online service operated by the Respondent, which was used by the Appellant to file the Amended Return on 19 November 2024.

41. In the present case, it is not in dispute that the Appellant made the Contribution to a PRSA on ■ August 2024.

42. It is common ground that the Appellant filed the Amended Return on 19 November 2024, in which he elected for the Contribution to be treated as paid in the Relevant Year. As that election was made late, it does not entitle the Appellant to the tax relief sought.

43. The Commissioner has accepted the Appellant’s evidence that he made repeated attempts to file an amended income tax return for the Relevant Year on myAccount prior to 31 October 2024 and 14 November 2024 but was unsuccessful in his attempts due to technical difficulties. It is noted that section 787C of the TCA 1997 makes no allowance even where an individual experiences technical difficulties, which is the situation in the

present case, irrespective of whether those difficulties are attributable to the online service or to him.

44. The Commissioner has found as a material finding of fact that the Appellant did not notify the Respondent of his request to claim tax relief for the Relevant Year in respect of the Contribution prior to 19 November 2024. Therefore, on the facts of this case, it is unnecessary to go further and consider whether an election, within the meaning of section 787C(3) of the TCA 1997, may be made in a form other than on an income tax return.
45. As the Commissioner is satisfied that the Appellant did not make the necessary election in time, it follows that the appeal cannot succeed.
46. The Commissioner recognises that the Appellant's circumstances are unfortunate and is empathetic to the personal circumstances described on appeal. However, the Commissioner's jurisdiction is limited to considering and applying tax law, and he has no equitable power or wider discretion to disapply statutory provisions on the ground that he sympathises with an appellant's personal circumstances. In that respect, it is noted that section 787C of the TCA 1997 affords no discretion to the Commissioner. This remains the position even where extenuating circumstances arise.

Determination

47. Having considered the evidence adduced and all the material submitted by the parties, for the reasons set out above, the Commissioner is satisfied that the Respondent was correct to refuse the Appellant's claim for tax relief for the Relevant Year in respect of the Contribution made to a PRSA.
48. The Respondent's decision of 27 November 2024 shall stand.
49. This appeal is determined in accordance with Part 40A of the TCA 1997 and in particular section 949AL. This determination contains full findings of fact and reasons for the determination, as required under section 949AJ(6) of the TCA 1997.

Notification

50. This determination complies with the notification requirements set out in section 949AJ of the TCA 1997, in particular section 949AJ(5) and section 949AJ(6) of the TCA 1997. For the avoidance of doubt, the parties are hereby notified of the determination under section 949AJ of the TCA 1997 and in particular the matters as required in section 949AJ(6) of the TCA 1997. This notification under section 949AJ of the TCA 1997 is being sent via digital email communication **only** (unless the Appellant opted for postal communication

and communicated that option to the Commission). The parties will not receive any other notification of this determination by any other methods of communication.

Appeal

51. Any party dissatisfied with the determination has a right of appeal on a point or points of law only within 42 days after the date of the notification of this determination in accordance with the provisions set out in section 949AP of the TCA 1997. The Commission has no discretion to accept any request to appeal the determination outside the statutory time limit.

A handwritten signature in black ink, consisting of a long, sweeping horizontal line followed by the name 'Walsh' written in a cursive style.

Conor Walsh
Appeal Commissioner
3 March 2026